

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Plaintiff brings this action for violations of the Family Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), and ORS §§ 652.150 and 652.610, and for wrongful discharge. Defendant moves for partial summary judgment as to plaintiff's FMLA, OFLA and wrongful discharge claims (#17). Defendant also moves for summary judgment as to punitive damages for the wrongful discharge claim in an additional motion for partial summary judgment (#49). Plaintiff Gary Hill brought this action on September 13, 2006, and has since

passed away. Plaintiff's wife, Tammy Hill, has substituted in as plaintiff. This order will refer to Gary Hill as plaintiff.

Because plaintiff had already been leaving his wife alone while he went to work, it was not the participation in ongoing need for her safety that prevented plaintiff from going to work, it was an emergency independent of his wife's medical condition which created a danger to anyone even those without a serious medical condition. The motion for summary judgment is granted as to the FMLA and OFLA interference claims. The motion is denied in all other respects.

CONCLUSION

For the reasons stated above, defendant's motion for summary judgment (#17) is granted in part and denied in part. In addition, defendant's motion for partial summary judgment (#49) is denied.

DATED this 13th day of November, 2007.

s/ Michael R. Hogan
United States District Judge